

## PUBLIC SERVICE COMMISSION OF WISCONSIN

### Minutes and Informal Instructions of the Open Meeting of Wednesday, March 31, 2010

The Public Service Commission of Wisconsin (Commission) met as noticed. Present were Chairperson Callisto, Commissioner Meyer, and Commissioner Azar.

#### **Minutes**

The Commission approved the minutes of the Open Meetings of Thursday, March 18, 2010, and Wednesday, March 24, 2010.

Chairperson Callisto abstained on the March 24 minutes as he was not present at that open meeting.

#### **5210-TI-104 – Application of Frontier Communications-St. Croix, LLC, for Approval of a New Alternative Regulation Plan**

The Commission approved the Notice of Investigation and directed it be signed by the Secretary to the Commission on behalf of the Commission.

#### **6150-TI-104 – Application of Frontier Communications of Viroqua, LLC, for Approval of a New Alternative Regulation Plan**

The Commission approved the Notice of Investigation and directed it be signed by the Secretary to the Commission on behalf of the Commission.

#### **6720-TI-222 – Application for Approval of Wisconsin Bell, Inc., d/b/a AT&T Wisconsin's 2010 Infrastructure Incentive Plan**

The Commission approved the Notice of Investigation and directed it be signed by the Secretary to the Commission on behalf of the Commission.

#### **3720-CW-118 – Application of Milwaukee Water Works, Milwaukee County, Wisconsin, for the 2010 Plant Capital Improvement Program**

The Commission approved the Notice of Investigation and directed it be signed by the Secretary to the Commission on behalf of the Commission.

**4630-WR-102 – Application of Phelps Sanitary District 1, Vilas County, Wisconsin, for Authority to Increase Water Rates**

The Commission approved the Notice of Proceeding and directed it be signed by the Secretary to the Commission on behalf of the Commission.

**5820-CW-103 – Application of Superior Water, Light and Power Company, Douglas County, Wisconsin, to Construct a Water Reservoir**

The Commission approved the Notice of Investigation and directed it be signed by the Secretary to the Commission on behalf of the Commission.

**5-AE-197 – Application of American Transmission Company LLC and Wisconsin Public Service Corporation for Approval of Affiliated Interest Agreements Relating to Make Ready Agreement - Manrap and Caldron Falls Substations, Make Ready Agreement - Facility Relocation, and Common Facilities Expansion - Cranberry and Highway V Substations**

The Commission modified and approved the Final Decision and directed it be signed by the Secretary to the Commission on behalf of the Commission.

**5820-AE-101 – Superior Water, Light and Power Company's Petition for Approval of Affiliated Interest Agreements with ALLETE, Inc.**

The Commission approved the Final Decision and directed it be signed by the Secretary to the Commission on behalf of the Commission.

**6680-AE-113 – Application for Approval of an Affiliated Interest Agreement Between Wisconsin Power and Light Company and Interstate Power and Light Company**

This item was laid over at the request of the Commission.

**3270-AE-103 – Application for Approval of Affiliated Interest Agreements Between Madison Gas and Electric Company and MGE Power Elm Road, LLC, Related to the Ownership and Leasing of Undivided Minority Interests in Elm Road Generating Station Units 1 and 2, and Associated New Common Facilities**

**Request for Approval of a Waiver Provision to the Facility Lease Agreements**

The Commission granted the request filed on behalf of Madison Gas and Electric Company and Wisconsin Energy Corporation for approval of a waiver provision to the Facility Lease Agreements to allow MGE Power Elm Road, LLC, to invoice Madison Gas and Electric

Company based on construction costs that exceed the approved amounts prior to a determination that the costs were prudently incurred.

The Commission directed the Gas and Energy Division to draft an order consistent with its decision.

**3270-FR-103 – Fuel Rules Proceeding to Adjust Madison Gas and Electric Company's Electric Rates Originally Set in Docket 3270-UR-115**

The Commission approved the request filed on behalf of Madison Gas and Electric Company to begin applying a \$0.00014 per kilowatt-hour fuel credit, related to its overcollection of 2009 fuel costs, to its Wisconsin retail customers' next monthly bills as soon as possible after receiving Commission approval.

The Commission directed the Gas and Energy Division to draft an order consistent with its decision.

**6680-GF-126 – Wisconsin Power and Light Company's Request for Approval of an Experimental Economic Development Program Rider and the Associated Approval of Deferral Treatment of Revenue Discounts**

The Commission denied the requests filed on behalf of Clean Wisconsin and Citizens' Utility Board (CUB) to intervene in this matter.

The Commission denied the request filed on behalf of CUB for a Class 1 contested case hearing.

Commissioner Azar dissented from the Commission's denial of CUB's request for a hearing.

The Commission approved the economic development rate (EDR) filed on behalf of Wisconsin Power and Light Company (WP&L) as an experimental rider for large commercial and industrial CP customers. WP&L initially proposed the EDR in November 2009 in order to counter the economic recession in WP&L's service territory and encourage the expansion of jobs. The utility filed a revised proposal on March 9, 2010, in response to initial Commission suggestions.

The Commission approved the following terms for the experimental rider:

1. The length of the pilot program, when customers can qualify for an EDR, is two years. After this pilot period, the Commission will examine the EDR and consider whether to continue it.

2. WP&L shall file an annual report by March 31 of each year describing the economic conditions of its service territory and the progress of the tariff.
3. WP&L shall notify the Commission when it adds a new customer to or removes a customer from the EDR.
4. WP&L's annual report will substitute for the test year 2012 report that the Commission had previously recommended.
5. WP&L may implement the EDR as a CP rate rider, as proposed, rather than creating the EDR as a new rate class.
6. The EDR rate shall be 105 percent of WP&L's marginal cost for the first year that a customer qualifies for the EDR. A customer that qualifies for the EDR will receive a discounted rate for five years, but the discount diminishes on a *pro rata* basis annually so the customer gradually moves to the standard CP rate.
7. The EDR discount applies to all additional incremental load for an existing CP customer, above its base level, and to all load for a new CP customer.
8. No minimum level of load is specified for an existing or new CP customer.
9. WP&L's filing includes a listing of available government economic development assistance programs. To qualify for the EDR, a customer must have received aid from one of these programs. This list may expand and include other programs, subject to the Commission's approval. Approval of these additional programs is delegated to the Administrator of the Gas and Energy Division.
10. The Commission approved WP&L's proposed definition of "marginal costs."
11. The Commission approved WP&L's proposal to drop its "competitor clause" from the EDR.
12. The Commission approved WP&L's request that the EDR also be available as a load retention tool to existing WP&L customers that are economically distressed. Offering the EDR to each economically distressed customer is subject to the Commission's prior approval, and economically distressed customers must also meet all the other conditions specified in WP&L's rider.

13. To qualify for the EDR, a customer must file an affidavit with WP&L affirming that, but for receipt of the EDR (either alone or in combination with other available economic programs), the customer would not locate its additional load in WP&L's service territory. For an economically distressed customer, the affidavit must affirm that, but for receipt of the EDR (either alone or in combination with other available economic programs), the customer would be forced to reduce its load or leave Wisconsin.
14. To qualify for the EDR, a customer must participate in all economically viable energy efficiency programs with a payback period of five years or less.
15. If the customer does not sustain its operations and reduces its load below the base level established when it first qualified for the EDR, the customer becomes disqualified from the EDR. Such a customer must reimburse WP&L for the amount of EDR discounts it received in the most recent two years that it was on the EDR.
16. The Commission approved the other terms specified in WP&L's proposal of March 9, 2010.

Commissioner Azar dissented from the Commission's approval of the EDR.

The Commission directed the Gas and Energy Division to draft an order consistent with its discussion.

Commissioner Azar will issue a written dissent after issuance of the Commission's order.

### **6690-FR-103 – Fuel Rules Proceeding to Adjust Wisconsin Public Service Corporation's Electric Rates Originally Set in Docket 6690-UR-119**

#### **Request to Reopen**

The Commission opened Wisconsin Public Service Corporation (WPSC) docket 6690-FR-103 under the fuel rules pursuant to Wis. Admin. Code ch. PSC 116.

The Commission determined that WPSC's electric rates are subject to refund with interest at 10.90 percent pending a final decision.

The Commission directed the Gas and Energy Division to draft an order consistent with its decision.

**6690-FR-101 – Fuel Rules Proceeding to Adjust Wisconsin Public Service Corporation's Electric Rates Originally Set in Docket 6690-UR-118**

**6690-FR-102 – Fuel Rules Proceeding to Adjust Wisconsin Public Service Corporation's Electric Rates Originally Set in Docket 6690-UR-119**

The Commission approved the request filed on behalf of WPSC to begin applying a \$0.01436 per kilowatt-hour fuel credit, related to its overcollection of 2008 and 2009 fuel costs, to its Wisconsin retail customers' next monthly bills as soon as possible after receiving Commission approval.

The Commission determined that any under-refunded balances are to be deferred for future return to ratepayers with interest at 10.90 percent. Any over-refunded balances are not to be deferred.

The Commission directed the Gas and Energy Division to draft an order consistent with its decision.

**CLOSED SESSION - The Commission recessed the open meeting, went into closed session under Wis. Stat. § 19.85(1)(g) to discuss the litigation matters noted below with legal counsel, and reconvened the open meeting pursuant to Wis. Stat. § 19.85(2).**

**FERC Docket RP10-148-000 – Northern Natural Gas Company**

**Discussion of proposed settlement**

Commissioner Meyer moved, pursuant to Wis. Stat. § 19.85(1)(g), that the Commission convene in closed session to discuss litigation matters with counsel. Commissioner Azar seconded the motion. The motion carried, and the Commission went into closed session.

After a discussion in closed session, the Commission reconvened in open session.

The Commission instructed Commission staff to affirmatively state that it does not oppose the motion to extend the procedural schedule.

The Commission adjourned the meeting at 11:48 a.m.